

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

CenterPoint Energy Gas Transmission Company Docket No. RP96-200-101

ORDER ACCEPTING AND SUSPENDING TARIFF SHEET SUBJECT TO REFUND AND
CONDITIONS

(Issued May 30, 2003)

1. On May 1, 2003, CenterPoint Energy Gas Transmission Company (CEGT) filed revised tariff sheets to implement a new negotiated rate transaction under Rate Schedule FT.¹ For the reasons discussed below, the Commission will waive the notice requirements of section 154.207 of the regulations, and accept and suspend Original Sheet No. 892, to be effective May 1, 2003, subject to refund and conditions. The Commission will accept without suspension Sheet Nos. 893-1999, to be effective May 1, 2003. This order benefits the public by allowing the Commission to obtain necessary information to determine whether the proposed rates and terms of service are just and reasonable and not unduly discriminatory.

Details of the Filing

2. CEGT's new negotiated rate transaction is with Amerimax Coated Products, Inc. The contract number with this shipper is 1001541, with a contract demand of 950 Dth/D, a rate of \$0.2318/Dth under Rate Schedule FT and a primary term through March 31, 2007. The primary receipt point is the North Pooling Area on CEGT's system, and the primary delivery point is the point of interconnection between CEGT and CenterPoint Energy Arkla, a Division of CenterPoint Energy Resources Corp., near West Helena, AR.

3. CEGT requests that the Commission grant any waivers of the Commission's regulations which are necessary in order to make the tariff sheets effective as of May 1, 2003.

¹Original Sheet No. 892 and Sheet Nos. 893-1999, to FERC Gas Tariff, Sixth Revised Volume No. 1

Notice, Interventions and Protests

4. The filing was noticed on May 6, 2003, with comments, protests or interventions due on or before May 13, 2003, as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214), all timely motions to intervene are granted and any motions to intervene out of time are granted as of the date of this order. Granting late intervention at this stage of the proceedings will not disrupt the proceedings or place additional burdens on existing parties. No interventions or protests were filed.

Discussion

5. CEGT has not filed a copy of the agreement with Amerimax Coated Products, Inc. CEGT has only filed a tariff sheet describing the transaction. Original Sheet No. 892 has nine footnotes, some of which appear to be restrictive to the shipper, requiring the waiver of certain rights in exchange for continuing service under the transaction. The remaining tendered tariff sheets have no bearing on this transaction, however, as they were filed to be reserved for future use.

6. The Commission has concerns about this new transaction as well as its terms and conditions. It appears that the purpose of the footnotes is to describe numerous and complex provisions associated with this transaction. Although CEGT has filed a tariff sheet, and not the contract, reflecting the essential elements of the transaction, it has not included a statement affirming that the negotiated rate contract does not deviate in any material aspect from the form of service agreement in the tariff. Such a statement is mandatory as required by the Order on Rehearing of the order issued in this proceeding giving CEGT the ability to negotiate rates pursuant to the Commission's negotiated rate policy.² Thus, the Commission does not have the requisite information to evaluate this new transaction to determine whether the agreement includes material deviations. Therefore, the Commission will accept and suspend the tariff sheet, subject to refund and further review.

7. Based on the information available and because CEGT has not made the requisite statement that there are no material deviations with respect to this transaction, the Commission directs CEGT to file a copy of the agreement and any related documentation, so that the Commission can determine if the agreement is non-conforming. Upon receipt

²See Order Accepting Tariff Sheets, Subject to Conditions, issued April 25, 1996, 75 FERC ¶ 61,091 (1996); Order on Rehearing, issued October 2, 1996, 77 FERC ¶ 61,011 (1996).

of this information, the filing will be subject to further review to determine if it is consistent with the Commission's regulations and policies.

Suspension

8. Based upon a review of the filing, the Commission finds that Original Sheet No. 892 has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. While the Commission does not ordinarily suspend negotiated rate filings, in the instant case the Commission lacks sufficient information to determine if any conditions should be imposed on the instant filing. Accordingly, the Commission will grant CEGT's request for waiver of the notice requirements and accept Original Sheet No. 892 for filing, and suspend its effectiveness for the period set forth below, and permit it to become effective, subject to refund and further review. However, the Commission will accept Sheet Nos. 893-1999 without suspension, as these were filed only to be reserved for future use.

9. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.³ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.⁴ Such circumstances exist here where the Commission is reviewing negotiated rate agreements that were filed in accordance with the procedures in the Commission's negotiated rate policy. Therefore, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect as proposed, subject to refund and further review.

The Commission orders:

(A) Original Sheet No. 892, to FERC Gas Tariff, Sixth Revised Volume No. 1, is accepted and suspended, to be effective May 1, 2003, subject to refund and conditions, as discussed in the body of this order.

³See Great Lakes Gas Transmission Co., 12 FERC ¶ 61,293 (1980).

⁴See Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980).

(B) Sheet Nos. 893-1999, to FERC Gas Tariff, Sixth Revised Volume No. 1, are accepted for filing, effective May 1, 2003.

(C) Waiver of the 30-day notice requirement of section 154.207 of the Commission's regulations is granted.

(D) CEGT must file the contract associated with the negotiated rate agreement and related documentation within 15 days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.